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**By ECF**

Honorable Gabriel W. Gorenstein  
United States Magistrate Judge  
Southern District of New York  
500 Pearl Street, Courtroom 6B  
New York, NY 10007

Re: *Gray, et al. v. City of New York et al.*, 1:21-cv-06610-CM, consolidated for discovery purposes with *In Re: New York City Policing During Summer 2020 Demonstrations*, 1:20-cv-08924-CM

Dear Magistrate Judge Gorenstein:

My law firm and I represent the five photojournalists (the “Plaintiffs”) who have brought civil rights claims against the City of New York and individual police officers in the action *Gray, et al. v. City of New York et al.*, 1:21-cv-06610-CM (the “Journalists’ Suit”). The Journalists’ Suit has been consolidated with the action *In Re: New York City Policing During Summer 2020 Demonstrations*, 1:20-cv-08924-CM (the “Consolidated Action”) for discovery purposes.

Pursuant to Your Honor’s order of October 6, 2021 (Dkt. 281), we write jointly with counsel for defendant City of New York (the “City”) concerning Plaintiffs’ discovery needs. In particular, the parties have discussed Plaintiffs’ immediate need for discovery concerning the identities of any remaining Doe defendants, as well as Judge McMahon’s order that while the Journalists’ Suit is otherwise consolidated with the Consolidated Action, “discovery pertaining to the journalists” “can proceed on its own” (1:21-cv-06610-CM, Dkt. 19). The parties also discussed prospects for settlement, and have agreed to continue negotiations.

After conferring, Plaintiffs and the City have jointly agreed to the following:

First, discovery shall begin immediately, before the City has answered or responded to the Complaint, in particular to allow Plaintiffs to promptly identify any remaining Doe defendants. The parties have executed a stipulation memorializing that agreement pursuant to

Page 2

Federal Rule of Civil Procedure 26(d)(1) (*see* Dkt. 287). Additionally, the City will provide Plaintiffs with all names of identifiable Doe defendants on or before October 28, 2021.

Second, Plaintiffs shall promptly file an amended complaint identifying Doe defendants as soon as initial discovery permits. The parties will confer regarding this amended complaint ahead of filing, and agree that, provided the amendments relate solely to the identities of Doe defendants, this filing will not change the City's deadline to respond. With respect to individual John Doe defendants who are later identified and are represented by counsel to the City, the City will not oppose the assertion by Plaintiffs that their claims against such Doe defendant relate back to the date on which Plaintiffs' original Complaint was filed for statute of limitations purposes.

Third, the City shall file its response to Plaintiffs' Complaint or Amended Complaint on or before November 8, 2021.

Fourth, the parties shall exchange initial disclosures on or before November 10, 2021.

Fifth, the parties shall abide by the discovery schedule in the Consolidated Action with regard to discovery relating to Plaintiffs' civil rights claims against the City, in particular any discovery concerning the New York City Police Department's pattern and practice as relates to visual journalists and others engaged in recording police activity in public.<sup>1</sup> Plaintiffs will coordinate with the plaintiffs in the Consolidated Action concerning affirmative discovery on these topics, and will avoid seeking duplicative discovery.

Sixth, subject to approval by Your Honor, fact discovery concerning Plaintiffs' individual claims relating to their specific alleged assaults and/or arrests shall close three months after the close of fact discovery in the Consolidated Action.

Counsel for the City have reviewed and consent to the filing of this letter.

We look forward to scheduling a conference with Your Honor on these issues as soon as practicable. We thank the Court for its attention to this matter.

Respectfully submitted,

/s/ Robert D. Balin

Robert D. Balin

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<sup>1</sup> The parties understand that the discovery schedule in the Consolidated Action is under revision, and have agreed to this deadline on the basis of the proposed revised discovery schedule.